



Michigan Supreme Court

State Court Administrative Office

Trial Court Services Division

Michigan Hall of Justice

P.O. Box 30048

Lansing, Michigan 48909

Phone (517) 373-4835

MEMORANDUM

DATE: February 2, 2006

TO: Judges
cc: Court Administrators
County Clerks
Probation Agents
Prosecutors

FROM: Dawn Childress, Management Analyst

RE: Diversion Process for Probation Violations

The Governor's 2005 Jail Overcrowding Taskforce Report notes that courts can drastically reduce their dockets and the number of admissions to jail if they utilize a diversion process for alleged probation violations rather than issuing Orders to Show Cause or bench warrants. Courts seeking to implement a diversion program rather than immediately violating probationers should work closely with their probation agents to establish guidelines.

Any diversion process that a court uses must strictly adhere to the Michigan Court Rules and must occur prior to the commencement of formal proceedings by a probation agent. If there is reasonable cause to believe a probationer has violated a condition of probation, and the probationer and agent stipulate to additional conditions of probation in lieu of formal proceedings, a proposed Amended Order of Probation must be submitted to the court for final determination. Once formal probation violation proceedings have been initiated and the court has found probable cause to believe that a probationer has violated a condition of probation and has issued a summons or warrant, an arraignment on the probation violation must be conducted. *See MCR 6.445. A probationer may not waive an arraignment on a probation violation.*

If a probationer agrees to diversion in lieu of instituting formal proceedings, he or she must not be required to provide an admission of guilt or waiver of arraignment. Additionally, the court should not issue an advice of rights. Attached is a template that courts may use in developing their diversionary processes. If you have any questions, please contact Dawn Childress at childressd@courts.mi.gov or 517-373-3756 or Sandi Hartnell at hartnells@courts.mi.gov or 517-373-0122.

PROBATION VIOLATION DIVERSION AGREEMENT

NAME: _____

CASE FILE: _____

I acknowledge that there is an alleged violation of probation. [*Insert allegations*]

I understand that formal proceedings may be instituted on the allegation of violation of probation.

I understand that if formal proceedings are instituted and the court finds probable cause to believe that I have violated a condition of probation, I may appear before Judge _____ for arraignment on the alleged violation of probation.

I understand that the above allegations will be held in abeyance and will not be filed if I successfully complete: [*Insert individual diversion plan*]

I understand that if I am terminated from the program for any reason, the above allegations will be filed and additional charges may be added.

I understand that I will not receive jail credit for completing the program.

I agree to amend my Order of Probation to include the terms listed in this agreement.

I understand that this Agreement must be approved by Judge _____ and that a proposed Amended Order of Probation will be submitted for the court's approval or denial.

Probationer's Signature Date

Probation Agent Signature Date

APPROVED

Supervisor's Signature Date